

# Exhibit 33

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.,*  
Civil Action No. 01-12257-PBS

Exhibit to the July 24, 2009, Declaration of George B. Henderson, II  
In Support of United States' Common Memorandum of Law in Support of Cross-Motions for  
Partial Summary Judgment and in Opposition to the Defendants' Motions for Summary  
Judgment

Baltimore, MD

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UNITED STATES DISTRICT COURT  
OF THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL	:	MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE	:	CIVIL ACTION
PRICE LITIGATION	:	01-CV-12257-PBS
THIS DOCUMENT RELATES TO	:	
U.S. ex rel. Ven-A-Care of	:	Judge Patti B.
The Florida Keys, Inc.,	:	Saris
Plaintiff,	:	
vs.	:	
ABBOTT LABORATORIES, INC.,	:	Chief Magistrate
No. 06-CV-11337-PBS	:	Judge Marianne B.
Defendants.	:	Bowler

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VOLUME I

Baltimore, Maryland

Wednesday, September 26, 2007

Videotape Deposition of:

LARRY REED,

the witness, was called for examination by counsel  
for the Defendants, pursuant to notice, commencing

Reed, Larry

September 26, 2007

Baltimore, MD

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1     there could have been other telephone  
2     conversations. I don't recall.

3             Q.     Was it more than one meeting?

4             A.     If I remember correctly, I remember at  
5     least two meetings.

6             Q.     And where were those meetings held?

7             A.     Those meetings were held in the  
8     previous -- the previous buildings that HCFA had.

9             Q.     In Baltimore?

10            A.     In Baltimore.

11            Q.     How long did those meetings last?

12            A.     Each meeting lasted -- the first  
13     meeting lasted at least a day, maybe two days.  
14     If I remember correctly, the second meeting, no  
15     longer than a day, if I'm remembering correctly  
16     about that.

17            Q.     And you recall two meetings, two in-  
18     person --

19            A.     Yes.

20            Q.     -- meetings, right?

21            A.     Yeah.

22            Q.     Do you know if there were other

Reed, Larry

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1 meetings that you were in attendance?

2 A. Not that I remember.

3 Q. Did you have a personal view on whether  
4 or not the AMP information should be shared with  
5 the states?

6 A. At that point in time?

7 Q. Yes.

8 A. Not that I recall.

9 Q. Did you eventually form a view on that  
10 issue?

11 A. Up to the present time?

12 Q. Yes.

13 A. Certainly with the passage of the  
14 Deficit Reduction Act, I -- it should be shared  
15 with the states.

16 Q. Did you have a personal belief prior to  
17 that time that the AMP information should be  
18 shared with the states?

19 A. The information that we would -- that  
20 we collected on AMP would have been of limited  
21 use to the states. They couldn't use it for  
22 reimbursement.

1           They had information that would -- that  
2       did allow them to calculate the rebate payment or  
3       at least invoice a rebate payment due them, so I  
4       guess in that regard it wouldn't have been  
5       helpful to them before the Deficit Reduction Act.

6           Q.    What would not have been helpful for  
7       them?

8           A.    Having the AMPs.

9           Q.    And why is that?

10          A.    It would not have been helpful for  
11       them? Because at that point, there's -- the AMPs  
12       couldn't be used for a rebate payment. They had  
13       already the unit rebate amount which allowed them  
14       to calculate the rebate payment that they would  
15       expect. They couldn't be used for reimbursement,  
16       they couldn't be used for payment.

17          Q.    Why not?

18          A.    Because of the confidentiality  
19       provisions.

20          Q.    Is there anything in the statute that  
21       specifically says AMP data cannot be used for  
22       reimbursement?

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1           A.     The confidentiality provisions allow  
2     for that data to be used for purposes that that  
3     section allow, which are the rebate calculations  
4     and payment of rebates.

5           Q.     And one of your responsibilities at  
6     HCFA was to approve state plans that set forth  
7     methodologies for reimbursing drugs, correct?

8           A.     To be part of that process. I didn't  
9     personally approve those plans.

10          Q.     But the central office would become  
11     involved when there was a question about whether  
12     or not a particular plan should be approved; is  
13     that fair to say?

14          A.     For -- are you talking again for the  
15     15-year time period?

16          Q.     Yes.

17          A.     Okay. For some -- for some of that  
18     time period, the central office would become  
19     involved, and for some of that time period, the  
20     central office would do the approvals.

21          Q.     Do you recall any states expressing an  
22     interest in obtaining the AMP data?